

108TH CONGRESS
1ST SESSION

H. R. 830

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries to health care in rural areas.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. MCINNIS (for himself, Mr. HOUGHTON, Mr. CAMP, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. HEFLEY, Mr. TANCREDO, Mr. BEAUPREZ, Mrs. MUSGRAVE, Mr. CLYBURN, Mr. HAYES, Mr. PETERSON of Minnesota, Mr. DAVIS of Illinois, Mr. GREEN of Wisconsin, Mr. MURTHA, Mr. GORDON, Mr. CASE, Mr. McNULTY, and Mr. JANKLOW) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries to health care in rural areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECU-**
4 **RITY ACT; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Medicare Rural Health Care Preservation Act of 2003”.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; amendments to Social Security Act; table of contents.
- Sec. 2. Five-year continuation of medicare managed care cost contracts.
- Sec. 3. Temporary protection for sole community hospitals under outpatient prospective payment schedule.
- Sec. 4. Improvements to the critical access hospital program.
- Sec. 5. Extension of temporary increase for home health services furnished in a rural area.
- Sec. 6. Increase in payments for hospice care furnished in frontier areas.
- Sec. 7. Treatment of eligibility for hospice care.

**SEC. 2. FIVE-YEAR CONTINUATION OF MEDICARE MAN-
AGED CARE COST CONTRACTS.**

Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended by striking “2004” and inserting “2009”.

**SEC. 3. TEMPORARY PROTECTION FOR SOLE COMMUNITY
HOSPITALS UNDER OUTPATIENT PROSPEC-
TIVE PAYMENT SCHEDULE.**

Section 1833(t)(7)(D) (42 U.S.C. 1395l(t)(7)(D)) is amended by adding at the end the following new clause:

“(iii) TEMPORARY TREATMENT FOR
SOLE COMMUNITY HOSPITALS.—In the
case of a hospital described in section
1886(d)(5)(C)(iii) that furnishes covered

1 OPD services for which the PPS amount is
 2 less than the pre-BBA amount—

3 “(I) in the case of such services
 4 furnished during 2004 or 2005, the
 5 amount of payment under this sub-
 6 section shall be increased by the
 7 amount of such difference;

8 “(II) in the case of such services
 9 furnished during 2006 or 2007, the
 10 amount of payment under this sub-
 11 section shall be increased by 95 per-
 12 cent of the amount of such difference;
 13 and

14 “(III) in the case of such services
 15 furnished during 2008 or 2009, the
 16 amount of payment under this sub-
 17 section shall be increased by 90 per-
 18 cent of the amount of such dif-
 19 ference.”.

20 **SEC. 4. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL**
 21 **PROGRAM.**

22 (a) REINSTATEMENT OF PERIODIC INTERIM PAY-
 23 MENT (PIP).—Section 1815(e)(2) (42 U.S.C.
 24 1395g(e)(2)) is amended—

1 (1) by striking “and” at the end of subpara-
2 graph (C);

3 (2) by adding “and” at the end of subpara-
4 graph (D); and

5 (3) by inserting after subparagraph (D) the fol-
6 lowing new subparagraph:

7 “(E) inpatient critical access hospital services;”.

8 (b) CONDITION FOR APPLICATION OF SPECIAL PHY-
9 SICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42
10 U.S.C. 1395m(g)(2)) is amended by adding after and
11 below subparagraph (B) the following:

12 “The Secretary may not require, as a condition for
13 applying subparagraph (B) with respect to a critical
14 access hospital, that each physician providing profes-
15 sional services in the hospital must assign billing
16 rights with respect to such services, except that such
17 subparagraph shall not apply to those physicians
18 who have not assigned such billing rights.”.

19 (c) FLEXIBILITY IN BED LIMITATION FOR HOS-
20 PITALS.—Section 1820 (42 U.S.C. 1395i–4) is amended—

21 (1) in subsection (c)(2)(B)(iii), by inserting
22 “subject to paragraph (3)” after “(iii) provides”;

23 (2) by adding at the end of subsection (c) the
24 following new paragraph:

1 “(3) INCREASE IN MAXIMUM NUMBER OF BEDS
2 FOR HOSPITALS WITH STRONG SEASONAL CENSUS
3 FLUCTUATIONS.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (C), in the case of a hospital that dem-
6 onstrates that it meets the standards estab-
7 lished under subparagraph (B) and has not
8 made the election described in subsection
9 (f)(2)(A), the bed limitations otherwise applica-
10 ble under paragraph (2)(B)(iii) and subsection
11 (f) shall be increased by 5 beds.

12 “(B) STANDARDS.—The Secretary shall
13 specify standards for determining whether a
14 critical access hospital has sufficiently strong
15 seasonal variations in patient admissions to jus-
16 tify the increase in bed limitation provided
17 under subparagraph (A).”; and

18 (3) in subsection (f)—

19 (A) by inserting “(1)” after “(f)”; and

20 (B) by adding at the end the following new
21 paragraph:

22 “(2)(A) A hospital may elect to treat the reference
23 in paragraph (1) to ‘15 beds’ as a reference to ‘25 beds’,
24 but only if no more than 10 beds in the hospital are at
25 any time used for non-acute care services. A hospital that

1 makes such an election is not eligible for the increase pro-
 2 vided under subsection (c)(3)(A).

3 “(B) The limitations in numbers of beds under the
 4 first sentence of paragraph (1) are subject to adjustment
 5 under subsection (c)(3).”.

6 (d) 5-YEAR EXTENSION OF THE AUTHORIZATION
 7 FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section
 8 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking
 9 “through 2002” and inserting “through 2007”.

10 (e) PROHIBITION OF RETROACTIVE RECOUPMENT.—
 11 The Secretary shall not recoup (or otherwise seek to re-
 12 cover) overpayments made for outpatient critical access
 13 hospital services under part B of title XVIII of the Social
 14 Security Act, for services furnished in cost reporting peri-
 15 ods that began before October 1, 2002, insofar as such
 16 overpayments are attributable to payment being based on
 17 80 percent of reasonable costs (instead of 100 percent of
 18 reasonable costs minus 20 percent of charges).

19 (f) EFFECTIVE DATES.—

20 (1) REINSTATEMENT OF PIP.—The amend-
 21 ments made by subsection (a) shall apply to pay-
 22 ments made on or after January 1, 2004.

23 (2) PHYSICIAN PAYMENT ADJUSTMENT CONDI-
 24 TION.—The amendment made by subsection (b)
 25 shall be effective as if included in the enactment of

1 section 403(d) of the Medicare, Medicaid, and
 2 SCHIP Balanced Budget Refinement Act of 1999
 3 (113 Stat. 1501A–371).

4 **SEC. 5. EXTENSION OF TEMPORARY INCREASE FOR HOME**
 5 **HEALTH SERVICES FURNISHED IN A RURAL**
 6 **AREA.**

7 (a) IN GENERAL.—Section 508(a) of the Medicare,
 8 Medicaid, and SCHIP Benefits Improvement and Protec-
 9 tion Act of 2000 (114 Stat. 2763A–533), as enacted into
 10 law by section 1(a)(6) of Public Law 106–554, is amend-
 11 ed—

12 (1) by striking “24-MONTH INCREASE BEGIN-
 13 NING APRIL 1, 2001” and inserting “IN GENERAL”;
 14 and

15 (2) by striking “April 1, 2003” and inserting
 16 “January 1, 2006”.

17 (b) CONFORMING AMENDMENT.—Section 547(c)(2)
 18 of such Act (114 Stat. 2763A–553) is amended by striking
 19 “the period beginning on April 1, 2001, and ending on
 20 September 30, 2002,” and inserting “a period under such
 21 section”.

22 **SEC. 6. INCREASE IN PAYMENTS FOR HOSPICE CARE FUR-**
 23 **NISHED IN FRONTIER AREAS.**

24 (a) 10 PERCENT INCREASE IN PAYMENT FOR HOS-
 25 PICE CARE FURNISHED IN A FRONTIER AREA.—Section

1 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding
 2 at the end the following new subparagraph:

3 “(D) With respect to hospice care furnished in a fron-
 4 tier area on or after January 1, 2004, and before January
 5 1, 2009, the payment rates otherwise established for such
 6 care shall be increased by 10 percent. For purposes of this
 7 subparagraph, the term ‘frontier area’ means a county in
 8 which the population density is less than 7 persons per
 9 square mile.”.

10 (b) REPORT ON COSTS.—Not later than January 1,
 11 2008, the Comptroller General of the United States shall
 12 submit to Congress a report on the costs of furnishing
 13 hospice care in frontier areas. Such report shall include
 14 recommendations regarding the appropriateness of extend-
 15 ing, and modifying, the payment increase provided under
 16 the amendment made by subsection (a).

17 **SEC. 7. TREATMENT OF ELIGIBILITY FOR HOSPICE CARE.**

18 (a) DEEMED ELIGIBILITY BASED ON DEATH IN
 19 FACT.—

20 (1) IN GENERAL.—Section 1814(i) of the Social
 21 Security Act is amended by adding at the end the
 22 following new paragraph:

23 “(4) For purposes of section 1814(a)(7)(A), the Sec-
 24 retary and a fiscal intermediary shall not take any action
 25 to deny payment for hospice care for an individual on the

1 basis that the individual is not terminally ill if the indi-
2 vidual dies within 6 months of the date the individual is
3 initially admitted into the hospice program for the receipt
4 of hospice care.”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall take effect on January 1,
7 2004.

8 (b) CMS REPORT.—

9 (1) IN GENERAL.—The Administrator of the
10 Centers for Medicare & Medicaid Services shall
11 evaluate the standards used by fiscal intermediaries
12 in denying physician certifications under section
13 1814(a)(7) of the Social Security Act (42 U.S.C.
14 1395f(a)(7)) that an individual is terminally ill (and
15 thereby making such individuals ineligible to elect
16 the hospice care alternative) and the impact of such
17 decisions on length of stay. Such evaluation shall re-
18 view the impact of the amendments made by section
19 322(a) of the Medicare, Medicaid, and SCHIP Bene-
20 fits Improvement and Protection Act of 2000 (114
21 Stat. 2763A–501), as enacted into law by section
22 1(a)(6) of Public Law 106–554 and the results of
23 the study conducted under section 322(b) of such
24 Act of 2000.

1 (2) REPORT.—Not later than 6 months after
2 the date of the enactment of this Act, the Adminis-
3 trator shall submit to Congress a report on the eval-
4 uation under paragraph (1).

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